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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/836,369	10/20/1997	VOLKER SCHMIDT	RSG 8379 US	6185

7590 02/18/2004
Law Office of Charles E. Krueger
P.O. Box 5607
Walnut Creek, CA 94596

EXAMINER

JAGAN, MIRELLYS

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/836,369

Applicant(s)

SCHMIDT, VOLKER *lon*

Examiner

Mirellys Jagan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3 and 82 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 82 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Prosecution Reopened

1. In response to the Board's Decision on 5/8/03, prosecution on the merits of this application is being reopened. New rejections based on previously cited reference(s) and a newly cited reference follow below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,368,392 to Hollander et al [hereinafter Hollander] in view of the publication titled "Unique Applications of Computer-Generated Diffractive Optical Elements" by Mokry.

Hollander discloses a device for temperature measurement comprising:

a radiometer having a detector and an optical system for imaging the heat radiation emanating from a measurement spot onto the detector, and

a sighting arrangement having a laser aligned to illuminate an optical element comprising a beamsplitter to produce a light pattern that identifies and outlines the position and size of the measurement spot by means of visible light. The optical element generates a circular arrangement of more than two beams to outline and identify the energy zone.

Hollander does not disclose the optical element of the sighting arrangement being a diffractive optical system.

Mokry discloses that diffractive optical systems (elements) are commonly used in the art as beamsplitters. Mokry teaches that using a diffractive optical system as a beamsplitter is beneficial since the diffractive optical system is more lightweight and less costly (see the abstract, lines 1-4 of section 1 (introduction), lines 1-2 of section 4.2 (DOE As Beamsplitter), and section 5 (Conclusions)).

Therefore, referring to claim 1, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device disclosed by Hollander by replacing the beamsplitter of the sighting arrangement with a diffractive optical system, as disclosed by Mokry, in order to make the device lighter in weight and less costly to manufacture.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander and Mokry, as applied to claims 1 and 82 above, and further in view of the prior art disclosed in U.S. Patent 5,477,383 to Jain.

Hollander and Mokry disclose a device having all of the limitations of claim 3, as stated above in paragraph 3, except for the diffractive optical system being formed by a holographic element.

Jain discloses that holographic elements have traditionally been used in the art to form diffractive optical systems (see column 11, lines 3-13).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device disclosed by Hollander and Mokry by using a

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holographic element to form the diffractive optical system, as disclosed by Jain, since it is well known in the art that a diffractive optical system is formed by a holographic element.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mirellys Jagan whose telephone number is 703-305-0930. The examiner can normally be reached on Monday-Thursday from 8AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 703-308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7725 for regular communications and 703-308-7725 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

mj
June 30, 2003

Reopening Prosecutor
[Signature]
HOWARD GOLDBERG
APPROVED
TECHNOLOGY CENTER 2800

[Signature]
ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
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